

**MINUTES OF PUBLIC MEETING  
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD  
FOR THE SUPERIOR COURT**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Superior Court was convened Tuesday, August 8, 2017 at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

**Board Members Present in Conference Room 109:** Kevin Kluge, Chairman; Mark Smalley; Jason Hathcock, Danna Quinn

**Board Members Absent:** Rob Lubitz

**Also Present:** Hannah Auckland, Board Attorney; Annette Corallo, Board Secretary; Leticia Chavez, Recorder; Court Reporter, Ottmar & Associates; Bradley Martin, Disability Applicant #17-01

**Call to Order:**

**Approval of the Minutes:**

July 10, 2017 – Public Meeting Minutes

**MOTION: A motion to approve the public meeting minutes of the July 10, 2017 meeting was made by Mark Smalley.** Motion was seconded and passed unanimously; minutes stand approved.  
**CORP 2017-37**

**Consideration of Disability Application #17-01 - IME Review; Decision on Benefit**

The Board received Application #17-01 from Bradley W. Martin for Ordinary Disability Retirement on April 20, 2017. The applicant was a juvenile detention officer in Mohave County. He was separated from employment for medical reasons on August 1, 2017. The applicant was not injured in the course of physical contact or confrontation with a probationer or detainee. The Board Secretary advised that the applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting. The Board Secretary also advised that the applicant was notified via certified letter that the Board would consider the IME report at this meeting and of his right to attend.

The applicant's physical exam dated April 18, 2013, was provided for the Board's review. The following were noted as pre-existing conditions in the physical exam report: total left knee replacement; myocardial infarction (x2); stents (x4); bilateral hearing loss – severe (+ hearing aids). Mr. Martin received a certified letter dated June 17, 2013, that informed him of the pre-existing conditions stated in the exam report.

Dr. Charles R. Breed, Board Certified in Cardiology, performed an Independent Medical Examination of the applicant on June 20, 2017. A copy of the IME report was provided, along with all medical records submitted to Dr. Breed. Dr. Breed completed the Ordinary Disability Questionnaire (Form C5-LB-O) and answered the four questions posed by the Board in the letter dated June 6, 2017, referring the applicant for the IME.

Dr. Breed stated that the applicant does not have a cardiac condition that totally and permanently prevents him from performing a reasonable range of duties within his department or a mental condition that totally and permanently prevents him from engaging in substantial gainful activity.

After receipt of the completed IME, Mr. Martin provided additional medical records on July 17, 2017. The additional records were provided to the Board for review. The only records provided that post-dated the IME exam are a “fit for duty” exam conducted at Kingman Regional Medical Center Occupational Health on June 22, 2017, and an office visit at Kingman Pulmonary Associates on June 12, 2017. The fit for duty exam stated the Mr. Martin could not safely and effectively perform his duties as a juvenile detention officer.

The Board Secretary advised that the Board will need to make a determination on eligibility based on the IME. Any motion to approve or disapprove the application should include a reference to the Independent Medical Evaluation upon which the determination is based. The Board can consider any medical evidence that the applicant may want to provide; however, the statutes are clear that a determination of disability shall be based on the IME. Material conflicts in medical evidence must be resolved by findings of the Board. Disability determinations by the State Comp Fund or other workers’ compensation bodies are not binding on the Local Board.

The Chair felt that with the additional medical records submitted after completion of the IME report, the Board would be unable to make a determination as the additional medical records would need to be submitted to the IME doctor for review.

Mr. Martin stated that since the Board’s meeting on July 10, 2017 he had been sent to occupational health and that based on that doctor’s findings he was laid off for medical reasons, because it was believed his condition posed a danger to himself, other officers and detainees. Mr. Martin also added that his pulmonologist increased his oxygen and that the doctor stated his oxygen level was at 60% at night and during the day was high 70-80%, which the doctor stated was well below acceptable oxygen saturation at the 90th percentile.

The Chair asked Mr. Martin if these breathing issues are caused by his COPD. Mr. Martin confirmed and stated that his doctors informed him he has some form of COPD which results in his struggle to breathe and swelling.

Board member Jason Hathcock asked if Mr. Martin’s request for disability was based on COPD or the heart attack. The Board Secretary confirmed that the application refers specifically to the heart attack, which is why Mr. Martin was referred to a cardiologist for the IME. Board member Jason Hathcock asked if it was possible for the applicant to amend his application to add COPD

as a disabling cause. The Board Attorney stated that it would be up to Mr. Martin to amend his application.

Mr. Martin stated that the COPD came after his heart attack and that he was not fully aware of the condition until after his heart attack. Mr. Martin also stated that he mentioned this to his cardiologist and that his cardiologist informed him the symptoms would pass with the change of medication. Mr. Martin stated the symptoms did not pass. Mr. Martin also added that his breathing and heart problems are big issues for him, and that they continue to hinder his performance.

The Chair asked if the Board was restricted to considering only what an applicant lists on their disability application, and whether, should other conditions come to light, the Board could consider these conditions or would an applicant need to resubmit their application? The Board Attorney responded that the Board could consider any new conditions, but the Board must make their decision based on the IME report and the current IME report is based on the medical records Mr. Martin submitted related to the heart condition. The Board Attorney added that should the Board wish to consider any new condition; the application would need to be amended to include the new condition and the Board would need an IME report that considers the new condition. The Board Attorney also added that the Board would need to determine if they would like to send the new medical records to Dr. Breed or, if the application is amended, sending Mr. Martin to another IME doctor for evaluation.

The Chair stated that he preferred sending the additional medical records to Dr. Breed for review and to request that Dr. Breed be available via telephone should the Board have any questions. Board member Jason Hathcock stated that his concern was that if the application was not amended to include COPD, the Board would be unable to make any determination on the case.

The Board Attorney stated that the Board could ask Mr. Martin if he wanted to amend his application and if so could send an email to the Board Secretary to confirm. The Chair confirmed with Mr. Martin that he would need to amend his application to include COPD via email to the Board Secretary. The Chair also added that once the application has been amended the Board could send Mr. Martin to another IME doctor for analysis of the COPD condition. The Board Attorney stated to Mr. Martin that amending his application would be his decision and that if he felt the COPD was a disabling condition he could add that condition to the application and send all medical records related to that condition to the Board for review.

**MOTION: A motion to send the additional medical records received on July 17, 2017 to IME Dr. Charles R. Breed for consideration based on the current disability application.**

#### **Discussion:**

Board member Mark Smalley asked if the Board needed to specify that the IME doctor complete the Ordinary Disability Questionnaire (Form C5-LB-O), the Board Attorney stated that the IME doctor would reevaluate the information in conjunction with the Ordinary Disability Questionnaire

For verification, the Board Attorney asked if the motion to base the additional review on the current application meant the application as it currently stands. Board Member Danna Quinn confirmed and stated that if the application is amended the Board would reconsider the amended application at that time.

Board Member Jason Hathcock asked whether the current IME doctor, Dr. Breed, would be able to make a medical determination as it relates to the COPD. The Chair stated that a pulmonologist would have to evaluate Mr. Martin for COPD as Dr. Breed is a cardiologist.

After discussion, the motion seconded and passed unanimously. **CORP 2017-38**

Mr. Martin stated that he has a follow up appointment with his pulmonologist on August 10, 2017 and a follow up appointment with this cardiologist on August 15, 2017, and would try to obtain those medical records and submit to the board as soon as possible.

### **Consideration of Disability Application #11-01 - Status Update on Reevaluation**

The Board approved Application #11-01 from Annette Lemond for Ordinary Disability benefits on June 7, 2011. At its meeting on May 9, 2017, during its fifth review of this case and based on medical records that seemed to indicate improvement of her condition, the Board voted to send Ms. Lemond for an independent medical reevaluation after collecting full medical records.

The applicant signed the confidentiality waiver to allow discussion of medical information in open session.

Staff has obtained most of Ms. Lemond's records, but encountered challenges collecting from one provider and was recently advised by Ms. Lemond of a different address for a former practice where records exist. Ms. Lemond was helpful in contacting the provider to ask that records at the provider's current location be faxed to the Board staff. On July 31, 2017, staff requested records from the prior facility that Ms. Lemond identified.

Staff has contacted MCN to start the process of locating an appropriate provider and contracting for an IME. However, MCN has stated that they are only able to find a psychiatrist near Ms. Lemond. The Board Secretary advised that during Ms. Lemond's last reevaluation she saw a neuropsychiatrist due to a brain bleed and asked if the Board would be satisfied with an IME report from a psychiatrist rather than a neuropsychiatrist. The Board Secretary also asked the Board Attorney if the Board had to request a dual IME for this case.

The Board Attorney stated that when PSPRS amended the model rules they took out the two-step component for mental conditions and now only require a psychiatric review by a medical doctor to conduct the IME. The Board still has the option to request two IME's, but the Board is no longer required to do so. The Board Secretary added that Ms. Lemond has a recent neuro psych report that she would forward to MCN to aide in locating the type of provider Ms. Lemond would need to see.

The Board agreed the Board Secretary should consult with MCN to determine an appropriate provider.

### **Approval of Normal Retirement Benefits:**

**MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts, effective August 1, 2017, was made by Jason Hathcock. Motion was seconded and passed unanimously. CORP 2017-39**

Charles O. Adeleye:	\$4,625.35; Reverse DROP Estimate \$151,296.71
Dena R. Covey:	\$4,128.50
Bernadette E. Croteau:	\$2,999.45; Reverse DROP Estimate \$36,351.68
Arno F. Hall:	\$5,408.57; Reverse DROP Estimate \$5,417.22
Robert D. Hanson:	\$1,540.60
Stephen J. Hartley:	\$3,751.41; Reverse DROP Estimate \$138,397.89
Kelly T. Pesano:	\$3,010.52
Kit S. Russell:	\$4,058.89; Reverse DROP Estimate \$253,277.27
Joy L. Skaggs:	\$2,699.57
Karen E. Struck:	\$2,564.35
David W. Wheeler:	\$1,806.09

### **Status Update - Potential Amendment to A.R.S. §38-891(F)**

The Chair stated that he has reached out to the AOC Legislative representative, Jerry Landau, and that Mr. Landau has expressed interest in reaching out to the union representative to possibly take the lead on a revision to A.R.S. §38-891(F). The Chair requested contact information for the union representative from Board member Jason Hathcock. Mr. Hathcock stated that he would try to obtain the requested information. The Board Attorney recommended that the Board not suggest the language and instead to present this as an issue that has come before the Board, and it appears that amending the language of A.R.S. §38-891(F) might assist the Board in making determinations on future requests to remain in the Arizona State Retirement System (ASRS). The Chair confirmed that the Board would not suggest any language for the revision of A.R.S. §38-891(F).

Board member Jason Hathcock confirmed with the Board Secretary and Attorney that the revision would only affect those who have at least five years of service in ASRS, are hired into a CORP designated position, and submit a request to the Board within 90 days of being hired to remain in ASRS.

### **Acknowledgement of CORP Physical Exam Final Letters:**

The Chair noted, for the record, that physical examination reports for Bianca Angulo, Terry R. Benson, Cheryl Brown-Aguilar, Jesus Durazo, Jacob E. Edelstein, Stephanie Luevano, Sarah A. Lunt, Alexandra Targos and Tae Hwan-Berry Yi were not received within 60 days of receipt of their membership applications and that final letters requesting an examination were sent to these members via certified mail on July 27, 2017.

### **Approval of Membership:**

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

Abril, Leana	Pima	6/11/2017
Abu, Emmanuel	Maricopa	7/17/2017
Angulo, Bianca	Maricopa	5/8/2017
Angulo-Parra, Yvette	Maricopa	7/17/2017
Baldino, Candice	Maricopa	7/17/2017
Benson, Terry	Maricopa	4/10/2017
Bergstein, Benjamin	Maricopa	7/17/2017
Brown-Aguilar, Cheryl	Cochise	3/26/2017
Bustos, Maria	Maricopa	7/17/2017
Chacon, Caesar	Pima	7/10/2017
Cohen, Benjamin	Maricopa	7/3/2017
Covington, Douglas	Maricopa	6/5/2017
Dorantes Castillo, Luis	Maricopa	7/17/2017
Durazo, Jesus	Cochise	3/26/2017
Edelstein, Jacob	Yavapai	4/23/2017
Ellies, Karlton	Maricopa	7/10/2017
Fazz, Evan	Yuma	7/3/2017
Flores, Elvia	Maricopa	7/17/2017
Floriano Morales, Narda	Maricopa	7/17/2017
Gallinger, Kimberly	Maricopa	7/17/2017
Hartle, Linette	Maricopa	7/17/2017
Linde, Colin	Cochise	5/22/2017
Luevano, Stephanie	Maricopa	4/10/2017
Lundberg, Oksana	Maricopa	7/17/2017
Lunt, Sarah	Mohave	4/17/2017
Magana, Victor	Yuma	7/3/2017
Miller, Kaylyn	Maricopa	7/17/2017
Ortiz, Alexis	Pima	6/19/2017
Powell, Lisa	Maricopa	7/17/2017
Ramsey, Scott	Maricopa	7/17/2017
Raygoza, Maday	Maricopa	7/17/2017
Saltmarch, Christopher	Pima	6/12/2017
Sandoval, Jessica	Graham	3/18/2017
Siordia, Elia	Maricopa	7/17/2017
Targos, Alexandra	Coconino	4/10/2017
Vaughn, Damian	Pima	5/30/2017
Vega, Ashley	Maricopa	7/17/2017
Willie, Poliana	Maricopa	7/17/2017
Woodson, Elizabeth	Maricopa	7/17/2017
Yi, Tae	Coconino	2/27/2017
Zepeda-Gomez, Maria	Yuma	7/3/2017

**MOTION: A motion to approve the 41 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. § 38-893.D and to note for the record that the physical examinations for Candice Baldino, Benjamin Cohen, Karlton Ellies, Elvia Flores, Narda Floriano Morales, Oksana Lundberg, Alexis Ortiz, Scott Ramsey and Elizabeth Woodson identified a physical or mental condition or injury that existed or occurred before the member's date of membership in the plan was made by Danna Quinn. Motion was seconded and passed unanimously. CORP 2017-40**

**Future Agenda Items:**

Related to disability cases, the Chair asked if the Board should discuss range of duties for each position. The Board Attorney stated that the IME doctor will weigh in on the condition and range of duties but also suggested that the Board look to their employee board members for what a reasonable range of duties would be. She also suggested that the Board may want to talk to the employer as to what a reasonable range of duties would be for a given position. The Board could do this by having the employer on the phone to discuss reasonable range of duties and alternatives available for another position or light duty. The Board Attorney advised that any Board members contact the Board Secretary ahead of time to arrange consultation with the employer. As to who the Board should speak with, the Board Attorney suggested the Board Secretary call the employer to identify a contact who can answer Board questions regarding range of duties

The Board Secretary stated that she plans to review the updated CORP model rules with the Board at its September 5, 2017 meeting.

The Board Secretary will also provide an update on disability applications #17-01 and #11-01.

**Call to the Public:**

No members of the public addressed the Board.

The meeting was adjourned at 10:35 a.m.

Transcribed August 8, 2017